

**HOUSE . . . . . No.**

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**The Commonwealth of Massachusetts**

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PRESENTED BY:

**Richard J. Ross**  
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*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act Requiring that Eminent Domain be for the Public Use and Defining Public Use.

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PETITION OF:

[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE HOUSE, NO. 1704 OF 2007-2008.]

## The Commonwealth of Massachusetts

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In the Year Two Thousand and Nine

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### AN ACT REQUIRING THAT EMINENT DOMAIN BE FOR THE PUBLIC USE AND DEFINING PUBLIC USE.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority  
of the same, as follows:*

1           Notwithstanding any other provision of law, neither this State nor any political subdivision thereof nor any  
2 other condemning entity shall use eminent domain unless it is necessary for a public use. Whenever property is  
3 condemned and will be used by a private party, the *condemner* must establish by clear and convincing evidence  
4 that the use of eminent domain complies with this section and is reasonably necessary.

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6           Public use: The term “public use” shall only mean (1) the possession, occupation, and enjoyment of the  
7 land by the general public, or by public agencies; (2) the use of land for the creation or functioning of public  
8 utilities or common carries; or (3) where the use of eminent domain (a)(i) removes a public nuisance; (ii) removes a  
9 structure that is beyond repair or unfit for human habitation or use; or (iii) is used to acquire abandoned property  
10 in its current condition. The public benefits of economic development, including an increase in tax base, tax  
11 revenues, employment, general economic health, shall not constitute a public use.

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